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SENSITIVE

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SUBJECT: CODEL BALLENGER VISIT ADVANCES U.S. INTERESTS

REF: GUATEMALA 1908

Classified By: PolOff Erik Hall. Reason 1.5 (b).

1. (SBU) Summary: A U.S. Congressional delegation led by Rep. Cass Ballenger, and including U.S. Representatives Kevin Brady, Jerry Weller, and Marsha Blackburn, visited Guatemala August 4-6. The CoDel conveyed to the GOG, civil society, the private sector and the press USG concern over recent election-related violence, our interest in assuring free and fair elections in Guatemala, Congressional support for a CAFTA agreement including strong labor rights and IPR protections and the need for continued GOG progress in combating drug trafficking. The CoDel visit demonstrated strong U.S. Congressional interest in Guatemalan democracy at this crucial juncture, and advanced our other highest priority goals in Guatemala. End Summary.

Background

2. (U) Congressman Cass Ballenger, Chairman of the Western Hemisphere Sub-Committee of the House International Relations Committee, headed a Congressional delegation that visited Guatemala August 4-6. The CoDel included U. S. Representatives Kevin Brady, Jerry Weller and Marsha Blackburn, as well as Mrs. Donna Ballenger, HIRC staffers Caleb McCarry, Jessica Lewis and Ted Brennan, State Department H officer James Hagen, and military escort Maj. William McCollough. The CoDel met with the Country Team and Embassy Homeland Security Working Group, with Acting President Francisco Reyes Lopez and selected ministers, with Foreign Minister Edgar Gutierrez and the GOG's Inter-Institutional Counter-Narcotics Cooperation Group, with representatives of the Guatemalan Congress, employer groups, civil society representatives and human rights NGOs. Press coverage of the visit was positive and straightforward.

Meeting the GOG: Narcotics, CAFTA, Elections

3. (C) The CoDel met with GOG officials at a reception hosted by the Ambassador on August 4, and again on August 5 at a lunch hosted by Acting President Francisco Reyes Lopez. The Vice President was accompanied by key members of the Economic Cabinet. They met with Foreign Minister Gutierrez and the Inter-Institutional Counter-Narcotics Cooperation Group on August 5, and attended a dinner hosted by the Guatemalan Congress in honor of the delegation that evening. In each event, CoDel members raised concerns over recent pre-electoral violence (RefTel), the need for an honest election process in the run-up to Presidential elections on November 9, the unprecedented opportunities offered by a possible CAFTA agreement, the strong Congressional interest that labor and IPR protections be incorporated into such an agreement. They also highlighted the importance of continued GOG cooperation in combating narco-trafficking.

4. (C) Senior GOG officials used the inter-ministerial counter-narcotics meeting to underscore GOG efforts to meet each of nine counter-narcotics problem areas identified by the USG. After the GOG presentation, CoDel members acknowledged GOG efforts, but urged continued commitment to combat narco-trafficking, and noted the issue would come up in the context of Congressional debate on CAFTA. Rep. Blackburn pressed for a firm GOG commitment and additional GOG resources to continue the fight. Attorney General Carlos de Leon cited resources already committed by all participating institutions to address the problem areas, and said the creation of the inter-ministerial group also embodied the GOG's commitment. Vice Minister of Foreign Affairs Gabriel Aguilera said the GOG is firmly committed to address each problem area completely, and emphasized that the inter-institutional working group has been formally constituted into a permanent body. Rep. Brady also said that counter-narcotics cooperation will factor strongly in the CAFTA debate expected in the U.S. Congress and asked whether the Guatemalan Congress was funding the resource requests of the institutions present. Minister of Government Reyes Calderon said his ministry's money-laundering unit had received an 18% budget increase from Congress over the past year. Supreme Court Justice Napoleon Rojas said no US

extraditions were pending (Comment: Not quite right; the Ambassador corrected. End Comment.), and that the court has auctioned seized assets and used the profits to create two new courts dedicated to trying cases involving organized crime.

15. (C) In a separate meeting with Foreign Minister Gutierrez (Defense Minister Moran was also present, but did not speak), Rep. Ballenger said his comment in October, 2002 to the effect that Guatemala should not be certified as cooperating fully in the counter-narcotics fight was not meant to offend, but to encourage stronger efforts in this mutual endeavor. He noted positive actions taken since de-certification by the GOG. Gutierrez described those efforts, including progress in meeting the USG's 9 benchmarks, but said he was still "not fully satisfied" with the results. "We are determined to do more," he said, "and have formed the inter-institutional counter-narcotics working group to continue improve cooperation." In response to a question from Rep. Ballenger, he also described GOG negotiations with Belize and the current status of border talks. While not resolved, he said, incidents in the adjacency zone have declined and the OAS has opened an office in the zone as a means to build mutual trust between the two nations. Rep. Weller expressed hope that a fair and balanced CAFTA will be achieved, which incorporates the labor and IPR protections of the US-Chile FTA.

16. (C) Rep. Brady described Congressional debate over CAFTA and the importance of the labor issue in the U.S. Gutierrez responded that a CAFTA is not limited to commercial relations but also expresses shared values and is a means to modernize Guatemala's business sector, which has profited from protectionism and lax enforcement of labor laws in the past. The GOG is pursuing an "aggressive" policy on CAFTA labor and commercial offers, and has been criticized by some other governments in the region for doing so. The current government has achieved major labor law reforms and major (more than 50%) increases to the minimum wage, and President Portillo is asking the ILO to evaluate Guatemalan labor law. Weak enforcement is unfortunately a result of weak state structures. Greater fiscal and social reforms are needed to form the basis for a CAFTA and a later FTA with the EU. In response to a question about the status of Article 98 discussions, the Foreign Minister said the GOG was studying the USG proposal, but could not take a position on an agreement when it has not yet ratified the Treaty of Rome. (Comment: This was bad news. The Ambassador raised this with Guatemalan Ambassador to the U.S. Antonio Arenales on August 5, telling him that Gutierrez needed to hear from him how important an issue this is to the USG and asking him to speak with the Foreign Minister; he said he would. The Ambassador told Gutierrez on August 6 in a TelCon that his reply to the CoDel was like a bucket of cold water to our hopes of getting an Article 98 agreement soon and that it did not make sense, inasmuch as our proposed text does not even refer to the ICC or Rome Treaty. Gutierrez replied that he may have listened too much to his legal advisors and said he would reconsider. The Ambassador suggested he seek Arenales' views as to the importance of this issue in Washington; Gutierrez pledged to consult with Arenales on both legalities and political importance. End Comment.)

17. (C) Asked by Rep. Ballenger for his views on the violent FRG protests of July 24-25, Gutierrez responded that these events "are not easy to understand and are harder to explain." The upcoming elections will be historic, he said, because this will be the first election where former guerrilla combatants will stand directly for election (referring to the URNG party, which has nominated Rodrigo Asturias (AKA Comandante Gaspar Ilom) for President, and which previously stood only in coalition with other parties). It is also historic because never before in Guatemalan history has a second consecutive democratically-elected government passed power to a third. President Portillo has made a firm commitment to a clean, credible election, but the pre-electoral campaign has become very controversial, causing great public confusion. He has asked the OAS to monitor the use of state funds for electoral purposes. "I personally reject the July 24-25 demonstrations, but also believe it is not helpful to exaggerate the facts. For example, the word "rioters" was incorrectly used here. What I saw was a well-organized and highly controlled movement. It is vital for Guatemalans to keep a cool head." The Ambassador responded that it is important to note that the demonstrators carried machetes, clubs and guns, and while they did not use them, they were acting in a way clearly intended to intimidate. He urged all sides to work to improve the electoral climate.

18. (C) At a Congressional dinner on August 5, host Vice President of Congress Zury Rios toasted the CoDel and said a majority of the Guatemalan Congress fully supports the counter-narcotics fight and will continue to do so. She also said Congress would support CAFTA approval. In response, Rep. Ballenger toasted US-Guatemalan friendship and told representatives that "the eyes of the world will be on

Guatemala" during this election year, and urged the GOG to conduct free and fair elections, free from violence and intimidation. He pledged to return to Guatemala to observe the elections himself. In private conversations with Rios, Rep. Ballenger and the Ambassador urged her and other FRG leaders present to prevent violence and intimidation of the sort witnessed on July 24-25.

Civil Society

9. (SBU) On August 4 the CoDel met with the Guatemalan Forum, a group formed in August 2002 to promote social dialogue. The Forum comprises individuals drawn from a variety of civil society organizations, including human rights groups, indigenous organizations, academic institutions and think tanks, private sector groups and unions, and religious organizations. Miguel Angel Barcacer, a director of a prominent socio-economic analysis think tank (ASIES), described for the Congressmen an atmosphere of repression and intimidation of rural voters by the ruling party, which erupted in violent riots on July 24-25 in the capital (one journalist died of a heart attack). The Forum has since issued position papers on national issues including security, economic revitalization, rural development, justice and electoral reform. The Forum recently joined with other civil society groups to form the "Civic Front" to address fraud in the upcoming elections. He requested USG support for clean elections and international observation of the vote in November.

10. (SBU) Carmen Aida Ibarra Moran of the Myrna Mack Foundation, criticized the lack of access to education, employment and health care for Guatemala's poor, and the continued effective exercise of power by "clandestine forces" linked to the ruling FRG, the Army, and retired Army officers. The threat from these forces, which have roots in all the political parties, represents an even greater threat to Guatemala's democracy that Rios Montt's candidacy per se. Human rights activist Mario Polanco warned that electoral fraud will occur well before voting day, and cited the July 24-25 riots as a direct consequence of the FRG's alleged re-activation of the network of civil self-defense patrols created by Rios Montt during the civil conflict. Of particular concern is the security of journalists in this context. On the brighter side, Federico Licht of the Guatemalan Jewish Community cited a rebirth of civil society groups willing to defend democratic freedoms, including the Guatemalan Forum. Rep. Ballenger commented that in the elections in El Salvador immediately after the peace accords were signed, 85% of voters turned out on election day despite numerous death threats. He encouraged civil society to educate voters about the secrecy of each vote and said he would be among those observing the vote in November.

11. (U) At a meeting on August 5 with human rights groups hosted by Frank LaRue, Director of the Center for Legal Action in Human Rights (CALDH), the delegation met with Fredy Peccerelli, Director of the Guatemalan Forensic Anthropology Foundation (FAFG); Iduvina Hernandez, Director of the Association for the Study and Promotion of Security in Democracy (SEDEM); and Nery Rodenas, Director of the Archbishop's Office on Human Rights (ODHA). The human rights leaders described a deteriorating security situation facing human rights workers, their initiative to create an international commission to investigate clandestine groups (CICIACS), and the increase in threats to the opposition from politically-motivated violence.

12. (U) Peccerelli spoke about his work exhuming clandestine cemeteries dating from the internal conflict, many of which were attributed to the counterinsurgency campaigns of the Rios Montt government in 1981-1982. Peccerelli recounted numerous death threats he and members of his staff have received, and described the GOG's protective efforts as weak. Hernandez and Rodenas alleged that the bulk of these threats are posed by "clandestine groups" linked to state structures through networks of retired military officers now involved in organized criminal activity. They expressed hope that the CICIACS would help identify and prosecute these networks and their members and requested USG financial and political support. The Ambassador responded that the USG has strongly supported the proposal politically, and is in the process of identifying financial support. More support will be needed from other donors, he said. LaRue showed the delegation several video clips from the riots of July 24-25, which he characterized as a blatant effort by the ruling Guatemalan Republican Front (FRG) to intimidate voters and the courts. Congressman Ballenger responded that the "world will be watching" the elections in November. Representative Brady said the Congress continues to make support for human rights in Guatemala a high priority.

13. (SBU) At a lunch on August 4 with Marcio Cuevas, Vice President of the main private sector group (CACIF) and President of the Non-Traditional Export Association (AGEXPROMT); Peter Lamport, former Guatemalan Ambassador to the U.S. and business leader; William Stixrud, a representative of the coffee exporters; and Mario Montano, ex-President of CACIF; CoDel members emphasized the opportunity presented by a potential CAFTA agreement. Congressional debate over CAFTA will be affected by the unemployment situation in the U.S. when the agreement is submitted to Congress, probably in March or April of 2004, Representative Ballenger said. There is great concern over labor conditions in Central America, he said, and urged business leaders to provide Congress evidence of adequate labor protections in law and effective enforcement of those laws. Rep. Brady emphasized that the vote on CAFTA in the U.S. Congress will be a close one, and may be determined by a small group of currently undecided Congress members concerned about labor rights protections in the region. The U.S.-Chile FTA is a good model for CAFTA labor provisions, but U.S. labor groups are skeptical about labor conditions in Central America. He encouraged business leaders to provide information about how Guatemalan worker rights are better protected today, citing Abraham Lincoln's dictum that "examples are not just the best form of persuasion, but rather the only form of persuasion." In addition, he said, the USG hopes CAFTA will help to integrate the region and build productive capacity. Representative Weller noted that 2004 is an election year in the U.S., and suggested that the later CAFTA is presented to Congress, the more difficult it will be to pass. He emphasized the importance of labor law enforcement, while also raising the importance to many U.S. Congressional members that IPR protections are fully respected. Rep. Blackburn expressed concern about IPR protections and agriculture provisions of a CAFTA.

14. (SBU) Cuevas said that successfully achieving a CAFTA agreement is CACIF's highest priority, to encourage greater foreign investment and joint ventures in Guatemala. He expressed "total agreement" that the Labor Ministry's inspectorate will require support to better enforce existing labor laws. He also expressed concern over the \$15 million maximum sanction for labor rights violations under the US-Singapore agreement. Lamport said that beyond its effect on trade, a CAFTA will help strengthen Guatemalan democracy by strengthening the rule of law. Guatemalans view a CAFTA as a tool to help maintain the competitiveness of exports from the region, and as a way to counter-balance potential dominance by Mexican firms. He claimed Guatemalan labor law to be "more than adequate," and cited voluntary industry efforts to improve working conditions out of a recognition that Guatemala cannot compete successfully "based on cheap labor alone." Unionization, however, is not the best way to benefit workers, he argued, citing the closure of the Phillips Van Heusen factory after a collective bargaining agreement was achieved in the mid-1990s. Lamport also cited the newly-created Civic Front as evidence of a mature, non-violent reaction by civil society to the inscription of Efraim Rios Montt as a candidate for the Presidency. In response to the Ambassador's query of what the Front will do, Lamport said the Front will begin observing election fraud or abuse of public resources now, and would encourage voters not to be discouraged by FRG intimidation tactics.

Press Gets Message

15. (U) The visit received extensive coverage by local media. On August 5, Rep. Ballenger was interviewed by journalist Carlisle Johnson on his English-language morning show and asked about the delegation's views on CAFTA, the fight against drugs and upcoming general elections in Guatemala. Later the same day, following a lunch meeting with Vice President Reyes Lopez, Rep. Ballenger was interviewed by major newspapers, news radio and TV regarding efforts made by the Government of Guatemala to combat narcotics trafficking. Finally, later that day, the media attended a press conference immediately following a meeting with human rights groups where reporters inquired about the CoDel's views on the violent demonstrations that took place in Guatemala City on July 24 and 25. In total, press items appeared in four daily newspapers, on two TV news reports, and three radio stations.

16. (U) Leading daily "Prensa Libre" ran a headline on August 6 that said "US warning: If there's fraud, no CAFTA; eyes of the world will be on the elections, signal U.S. Congress members." While predictably the press tried to draw Rep. Ballenger out on the possible effect of a Rios Montt win on CAFTA, Rep. Ballenger's response was that if Rios Montt wins in a free and fair election, he doubted that it would affect the vote on CAFTA. Reps. Ballenger and Brady strongly emphasized the need for continued progress on counter-narcotics cooperation, saying Congress will give that issue significant consideration when debating a CAFTA agreement. On narcotics certification, Rep. Ballenger told

the press that encouraging progress has been made, and noted that it is President Bush's decision whether we certify or not.

Comment

116. (C) This was a timely, extremely useful visit and we are grateful for the CoDel's interest and support. The CoDel visit was well received by all sectors here, including the press, and supported USG interests and Embassy efforts on a range of issues. For its part, the GOG rolled out the red carpet, with the VP hosting a lunch and Congressional Vice President Zury Rios hosting a gala dinner with all but the GANA Congress members present (they were invited but declined). Guatemalans who had contact with the CoDel went away convinced of U.S. Congressional interest in Guatemalan democracy at this critical juncture: in the wake of pre-electoral violence and in the context of the unprecedented opportunity offered by CAFTA negotiations. At a reception hosted by the Ambassador for a broad cross-section of Guatemalan civil society, government members and opposition figures, Rep. Ballenger made a strong statement about the need for clean, peaceful elections, the importance of CAFTA to the region, and the need to address labor rights issues.

117. (U) This cable was not cleared by CoDel members prior to their departure.

HAMILTON